

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SELENA STALEY, VIVIAN HOLMES, and :
OLIVE IVEY, on behalf of themselves and :
all others similarly situated, :
:

Plaintiffs, :
:

V. :
:

FSR INTERNATIONAL HOTEL INC. d/b/a FOUR :
SEASONS HOTELS AND RESORTS, HOTEL 57 :
SERVICES, LLC, HOTEL 57, LLC, TY WARNER :
HOTELS & RESORTS LLC, and H. TY WARNER, :
:

Defendants. :
:

Case No. 22-cv-6781- (JSR)

**DECLARATION OF
MARC B. ZIMMERMAN**

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I, Marc B. Zimmerman, pursuant to 28 U.S.C. § 1746, state and declare as follows:

1. I am a Partner at Smith, Gambrell & Russell, LLP, attorneys for Defendants Hotel 57 Services, LLC, Hotel 57, LLC, Ty Warner Hotels & Resorts, LLC and H. Ty Warner (collectively the “Warner Defendants”) and am fully familiar with the facts and circumstances surrounding this action and the matters stated in this Declaration.

2. I respectfully submit this declaration in support of the Warner Defendants’ motion for an Order (1) to take judicial notice of certain facts the Warner Defendants rely upon in their Motion for Summary Judgment dated May 31, 2024 and their Opposition to Plaintiffs’ Motion for Class Certification and Appointment of Class Counsel dated May 31, 2024 (contemporaneously filed herewith); and (2) for such other and further relief as this Court deems just and proper.

3. A true and correct copy of the New York Times’ Newspaper published on December 19, 2019 and available on the New York Time’s official website can be found at <https://www.nytimes.com/issue/todayspaper/2019/12/19/todays-new-york-times>.

4. A true and correct copy of the New York Times' December 19, 2020 cover page available on the New York Time's website is annexed hereto as **Exhibit A**.

5. A true and correct copy of the New York Times' Newspaper published on January 19, 2020 and available on the New York Time's official website can be found at <https://www.nytimes.com/issue/todayspaper/2020/01/19/todays-new-york-times>.

6. A true and correct copy of the New York Times' January 19, 220 cover page available on the New York Time's website is annexed hereto as **Exhibit B**.

7. A true and correct copy of the article titled "*Worried About Catching The New Coronavirus? In the U.S., Flu Is Bigger Threat*" published by National Public Radio on January 29, 2020 and accessible on NPR's website at <https://www.npr.org/sections/health-shots/2020/01/29/800813299/worried-about-catching-the-new-coronavirus-in-the-u-s-flu-is-a-bigger-threat> is annexed hereto as **Exhibit C**.

8. A true and correct copy of the article titled "*Should you panic about the coronavirus from China? Here's what the expert say*" published by the Los Angeles Times on January 24, 2020 and accessible on the website as <https://www.latimes.com/science/story/2020-01-24/china-coronavirus-panic> is annexed hereto as **Exhibit D**.

9. A true and correct copy of the World Health Organization (the "WHO") Director-General's opening remarks at the media briefing on COVID-19 on March 11, 2020 is accessible on the WHO's website at <https://www.who.int/director-general/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020> and annexed hereto as **Exhibit E**.

10. A true and correct copy of the Notice on the Continuation of the National Emergency Concerning the Coronavirus Disease 2019 (COVID-19) Pandemic is available on the

White House website at [https://www.whitehouse.gov/briefing-room/presidential-actions/2023/02/10/notice-on-the-continuation-of-the-national-emergency-concerning-the-coronavirus-disease-2019-covid-19-pandemic-3/#:~:text=February%2010%2C%202023-.Notice%20on%20the%20Continuation%20of%20the%20National%20Emergency%20Concerning%20the,\(COVID%2D%E2%81%A019\)%20Pandemic&text=On%20March%2013%2C%202020%2C%20by,\(COVID%2D19\)%20pandemic](https://www.whitehouse.gov/briefing-room/presidential-actions/2023/02/10/notice-on-the-continuation-of-the-national-emergency-concerning-the-coronavirus-disease-2019-covid-19-pandemic-3/#:~:text=February%2010%2C%202023-.Notice%20on%20the%20Continuation%20of%20the%20National%20Emergency%20Concerning%20the,(COVID%2D%E2%81%A019)%20Pandemic&text=On%20March%2013%2C%202020%2C%20by,(COVID%2D19)%20pandemic) and annexed hereto as **Exhibit F**.

11. A true and correct copy of the various New York State Executive Orders issued by New York State then-Governor Andrew Cuomo concerning COVID-19 that were issued beginning March 7, 2020 is available at www.op.nysed.gov/about/covid-19/expired-executive-orders and applicable Executive Orders are collectively annexed hereto as **Exhibit G**.

12. A true and correct copy of the Four Seasons Hotel New York's announcement of its re-opening on its website can be found on its website at <https://www.fourseasons.com/newyork/>.

13. A true and correct copy of the Four Season Hotel New York's August 3, 2023 press release regarding the Hotel's re-opening is annexed hereto as **Exhibit H**.

14. For the reasons set forth in the accompanying Memorandum of Law, the Warner Defendants' Motion for Judicial Notice should be granted, in its entirety.

15. I declare under the penalty of perjury that the foregoing is true and correct.

Dated: New York, New York
May 31, 2024

By: /s/ Marc B. Zimmerman
Marc B. Zimmerman